

Tuesday, September 10, 2024 at 15:14:04 Eastern Daylight Time

Subject: RE: Jews at Haverford v. The Corporation of Haverford College
Date: Wednesday, July 17, 2024 at 10:44:45 AM Eastern Daylight Time
From: Richards, Joshua W. B.
To: Jerome Marcus, Schy, Levi R.
CC: Lori Lowenthal Marcus
Attachments: image001.png

Jerome,

The relevant Rules referenced by the Judge's order include the obligation to meet and confer under Rule 26(f) prior to serving discovery. I do not read the Judge's order to abrogate that part of the Rules.

In any case, as you note, a motion to dismiss is now pending that could result in the dismissal of all claims, so the point is now moot, in our view, until the Rule 12 briefing is concluded.

We do not intend to respond to your discovery requests until it is clear whether any of your claims will survive.

Joshua W. B. Richards

Partner

Pronouns: He/him/his

SAUL EWING LLP | Philadelphia

Office: (215) 972-7737 **Cell:** (917) 679-5223

From: Jerome Marcus <jmarcus@deborahproject.org>
Sent: Wednesday, July 17, 2024 10:15 AM
To: Richards, Joshua W. B. <Joshua.Richards@saul.com>; Schy, Levi R. <levi.schy@saul.com>
Cc: Lori Lowenthal Marcus <lorilowenthalmarcus@deborahproject.org>
Subject: Re: Jews at Haverford v. The Corporation of Haverford College

Josh, the Federal Rule applies except when the Judge orders otherwise. I attach Judge McHugh's standing order. In relevant part (Discovery Matters, page 2) it says:

Parties should begin discovery as soon as permitted under the relevant Rules, without waiting for the Rule 16 Conference to be held. Furthermore, parties should not delay commencing discovery due to the pendency of a Motion to Dismiss, except where the motion could result in complete dismissal of the case

Theoretically, your motion could (though of course we're confident it won't) result in dismissal of the entire case, so if it had been pending when our discovery was issued, or perhaps even when responses were due, the situation would be different. As it is, however, pursuant to Judge McHugh's standing order, we were authorized to issue discovery when we did, and Haverford was obliged to respond, at a time when there was no motion.

As to the second issue, yes – Lori's email to you of June 3 asked if we could agree that discovery and responses be served by email. I'm not sure we can consent to service of filings by email, as I think we're required to effect service by filing on ECF, but we've certainly have no objection to also our

also agreeing to send one another all filings by email.

JMM



Jerome M. Marcus

President

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P.O. Box 212 Merion Station, PA 19066

jmarcus@deborahproject.org

From: Richards, Joshua W. B. <Joshua.Richards@saul.com>

Date: Wednesday, July 17, 2024 at 10:00 AM

To: Jerome Marcus <jmarcus@deborahproject.org>, Schy, Levi R. <levi.schy@saul.com>

Cc: Lori Lowenthal Marcus <lorilowenthalmarcus@deborahproject.org>

Subject: RE: Jews at Haverford v. The Corporation of Haverford College

Hi Jerome,

I'm not sure what the motion to dismiss has to do with it – the Rule 26(f) conference is what triggers the ability to serve discovery under the Federal Rules, as I noted in my email below.

We are happy to agree to reciprocal consents for all parties to serve all discovery and filings electronically. Is that what you are suggesting?

Best,

Joshua W. B. Richards

Partner

Pronouns: He/him/his

SAUL EWING LLP | Philadelphia

Office: (215) 972-7737 **Cell:** (917) 679-5223

From: Jerome Marcus <jmarcus@deborahproject.org>

Sent: Wednesday, July 17, 2024 9:18 AM

To: Richards, Joshua W. B. <Joshua.Richards@saoul.com>; Schy, Levi R. <levi.schy@saoul.com>
Cc: Lori Lowenthal Marcus <lorilowenthalmarcus@deborahproject.org>
Subject: Re: Jews at Haverford v. The Corporation of Haverford College

You are aware, I assume, that both when our discovery was served and on the date that responses were due, no motion to dismiss was pending?

Also, would you be kind enough to respond to our request that discovery and responses thereto can be served by email?

Thank you.

Jerome M. Marcus



Jerome M. Marcus

President

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jmarcus@deborahproject.org

From: Richards, Joshua W. B. <Joshua.Richards@saoul.com>

Date: Monday, July 15, 2024 at 6:14 PM

To: Jerome Marcus <jmarcus@deborahproject.org>, Schy, Levi R. <levi.schy@saoul.com>

Cc: Lori Lowenthal Marcus <lorilowenthalmarcus@deborahproject.org>

Subject: RE: Jews at Haverford v. The Corporation of Haverford College

Counsel,

We intend to respond to discovery in accordance with the Rules of Civil Procedure, which do not impose any response obligations on discovery served prior to the Rule 26(f) conference.

| **Joshua W. B. Richards**

Partner

Pronouns: He/him/his

SAUL EWING LLP | Philadelphia

Office: (215) 972-7737 **Cell:** (917) 679-5223

From: Jerome Marcus <jmarcus@deborahproject.org>

Sent: Monday, July 15, 2024 2:27 PM

To: Richards, Joshua W. B. <Joshua.Richards@saul.com>; Schy, Levi R. <levi.schy@saul.com>

Cc: Lori Lowenthal Marcus <lorilowenthalmarcus@deborahproject.org>

Subject: Jews at Haverford v. The Corporation of Haverford College

****EXTERNAL EMAIL** - This message originates from outside our Firm. Please consider carefully before responding or clicking links/attachments.**

Counsel, as you are aware, Plaintiffs served discovery upon Defendant in the above-captioned matter in early June. We did so first by email, asking that you consent to service of such material by email. You did not respond to that request. We then served you by first class mail. As of today's date we have no response.

Can you please advise whether you intend to respond to this discovery, and if so when?

Thank you.

Jerome M. Marcus
Counsel for Plaintiffs



Jerome M. Marcus

President

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"Saul Ewing LLP (saul.com)" has made the following annotations:

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